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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

Proceeding	91164764
Party	Plaintiff Brink's Network, Incorporated
Correspondence Address	ALAN S. COOPER HOWERY SIMON ARNOLD & WHITE LLP 1299 PENNSYLVANIA AVENUE NW WASHINGTON, DC 20004 UNITED STATES lapidusn@howrey.com, ipdocketing@howrey.com, figginsl@howrey.com
Submission	Answer to Counterclaim
Filer's Name	Alan S. Cooper
Filer's e-mail	coopera@howrey.com, pisiganj@howrey.com, ipdocketing@howrey.com
Signature	/alan s cooper/
Date	05/21/2010
Attachments	Opposer's Reply to Applicant's Counterclaims.pdf ( 5 pages )(209424 bytes )

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE TRADEMARK TRIAL AND APPEAL BOARD

BRINK'S NETWORK, INCORPORATED	)	
	)	
Opposer	)	
	)	
v.	)	Opposition No. 91164764
	)	
BRINKMANN CORPORATION	)	
	)	
Applicant	)	

OPPOSER'S REPLY TO  
APPLICANT'S COUNTERCLAIMS

In accordance with Rule 8(b) Fed. R. Civ. P. and Rule 2.114(b)(1) of the Trademark Rules of Practice, Opposer states its Reply to the Counterclaims asserted in Applicant's Answer to Opposer's Second Amended Notice of Opposition filed on or about August 26, 2009, as follows:

(1) Answering the allegations of ¶ 37 of the Counterclaims, Opposer admits only that Applicant has asserted counterclaims for cancellation of Opposer's pleaded Registration Nos. 529,622, 1,412,587 and 1,411,610 on the grounds asserted in ¶¶ 38 through 52, inclusive, but denies Applicant is lawfully entitled to the relief which it seeks.

(2) Answering the allegations of ¶ 38 of the Counterclaims, Opposer admits that ¶ 12 of Second Amended Notice of Opposition asserts ownership of Registration No. 529,622 of the mark BRINK'S (Stylized) for receiving checks; cashing the same; making up payrolls; carrying same or other moneys or securities; guarding and protecting same and paying payrolls; handling clearings; selling tickets; handling proceeds from conventions, exhibitions, and performances; and repairing

safes, chests, cash protectors and similar equipment, which issued on August 12, 1950, and has been duly renewed.

(3) Opposer denies the allegations of ¶ 39 of the Counterclaims.

(4) Opposer denies the allegations of ¶ 40 of the Counterclaims.

(5) Answering the allegations of ¶ 41 of the Counterclaims, Opposer admits that its opposition to Application Serial No. 76/483,115 (hereinafter the “opposed application”) is based in part on Registration No. 529,622.

(6) Opposer denies the allegations of ¶ 42 of the Counterclaims.

(7) Answering the allegations of ¶ 43 of the Counterclaims, Opposer admits that ¶ 14 of Second Amended Notice of Opposition asserts ownership of Registration No. 1,412,587 of the mark BRINK’S HOME SECURITY for security alarm and monitoring system services which issued October 7, 1986, and has been duly renewed.

(8) Opposer denies the allegations of ¶ 44 of the Counterclaims.

(9) Opposer denies the allegations of ¶ 45 of the Counterclaims.

(10) Answering the allegations of ¶ 46 of the Counterclaims, Opposer admits that its opposition to the opposed application is based in part on Registration No. 1,412,587.

(11) Opposer denies the allegations of ¶ 47 of the Counterclaims.

(12) Answering the allegations of ¶ 48 of the Counterclaims, Opposer admits that ¶ 15 of Second Amended Notice of Opposition asserts ownership of Registration No. 1,411,610 of the mark BRINK’S & Design for security alarm and monitoring system services which issued on September 30, 1986, and has been duly renewed.

(13) Opposer denies the allegations of ¶ 49 of the Counterclaims.

(14) Opposer denies the allegations of ¶ 50 of the Counterclaims.

(15) Answering the allegations of ¶ 51 of the Counterclaims, Opposer admits that its opposition to the opposed application is based in part on Registration No. 1,411,610.

(16) Opposer denies the allegations of ¶ 52 of the Counterclaims.

(17) All allegations in the Counterclaims not admitted in the preceding paragraphs are hereby expressly denied.

#### AFFIRMATIVE DEFENSES

(18) Applicant's use of the mark BRINKMANN in connection with the home security systems and components therefor, namely, motion sensitive home security lights, detectors, receivers, transmitters, adapters and wall mount brackets as described in International Class 9 of the opposed application (hereinafter "home security systems and components therefor") is likely to cause confusion, mistake or deception with respect to the source, origin and/or sponsorship of such goods. As a consequence of such acts, Applicant is guilty of unclean hands and thereby estopped from recovering on its Counterclaims.

(19) Applicant's use of the mark BRINKMANN in connection with the home security systems and components therefor is likely to dilute the distinctiveness of the Opposer's famous marks BRINK'S, BRINK'S & Design, BRINK'S (Stylized), BRINK'S HOME SECURITY and BRINK'S HOME SECURITY & Design. As a consequence of such acts, Applicant is guilty of unclean hands and thereby estopped from recovering on its Counterclaims.

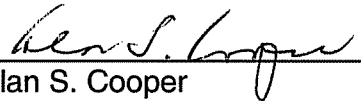
(20) Applicant has used packaging and/or labeling for home security systems and components therefor which displays the federal statutory registration symbol ® in connection with the mark BRINKMANN. As Applicant does not own a

subsisting federal registration of the mark BRINKMANN that covers home security systems and components therefor, its use of the federal statutory registration symbol ® in connection with such goods constitutes a violation of § 29 of the Federal Trademark Act which deceives the consuming public. As a consequence of such acts, Applicant is guilty of unclean hands and thereby estopped from recovering on its Counterclaims.

WHEREFORE, Opposer respectfully prays that Applicant's counterclaims for cancellation of Registration Nos. 529,622, 1,412,587 and 1,411,610 be dismissed with prejudice.

BRINK'S NETWORK, INC.

Date: May 21, 2010

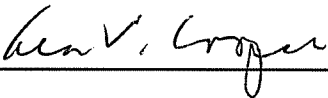
By:   
Alan S. Cooper  
Alesha M. Dominique  
Howrey LLP  
1299 Pennsylvania Avenue, NW  
Washington, DC 20004-2402  
202.783.0800  
202.383.7195 (Facsimile)

Attorneys for Opposer

CERTIFICATE OF SERVICE

It is hereby certified that a true copy of the foregoing Opposer's Reply to Applicant's Counterclaims was served on the following attorneys of record for Applicant by depositing the same in the United States mail, first class postage prepaid, on this 21st day of May, 2010:

Gary A. Clark, Esq.  
Susan Hwang, Esq.  
Sheppard, Mullin, Richter & Hampton LLP  
333 South Hope Street, 48th Floor  
Los Angeles, California 90071

  
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